

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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PETITION OF DAMASCUS SPORTS ASSOCIATION

OPINION OF THE BOARD

(Resolution Adopted November 12, 2003)
(Effective Date of Opinion: February 23, 2004)

Case No. S-2583 is an application for a special exception to permit the construction and operation of a youth athletic facility. The proposed sports facility will operate year-round with the greatest use of the fields on Saturdays and will consist of: (1) nine playing fields; (2) several large multi-use practice areas; (3) a concession stand; (4) bleachers on one of the large fields; (5) two parking lots; (6) the installation of lighting on the football field and two of the baseball/softball fields; and (7) parent volunteers to assist with all activities.

Pursuant to the authority in Section 59-A-4.125 of the Zoning Ordinance, the Board of Appeals referred the case to the Hearing Examiner for Montgomery County to conduct a public hearing and submit a report and recommendation. The Hearing Examiner convened a public hearing on October 30, 2002. The hearing was continued over to November 20, 2002, December 2, 2002, April 14, 15, 16, and 29, May 19, 20, and 27, June 20, and July 1, 2003. The record closed on August 18, 2003, and on September 10, 2003 the Hearing Examiner issued a report and recommendation for denial of the special exception.

Decision of the Board: Special Exception **Denied**.

The Board of Appeals considered the report and recommendation at its Worksession on November 12, 2003, together with a request for oral argument from Jody S. Kline, Esquire, on behalf of Damascus Sports Association and letters of opposition to oral argument from Ronald Smith, and William J. Chen, Jr., Esquire, on behalf of Jeannie Owen and David Bernard. After careful consideration and review of the record in the case, the Board **adopts** the Hearing Examiner's report and recommendation and notes with particularity his

conclusion that “the unusual characteristics of the site play a major role in creating non-inherent adverse effects from the proposed use. The centrally located stream valley buffer requires the ball fields to be located at the perimeter where they will project adverse impacts including noise, dust, fumes and physical activity inconsistent with the character of the neighborhood.” [Report and Recommendation, p. 130]. Therefore, on a motion by Angelo M. Caputo, seconded by Donna L. Barron, with Louise L. Mayer, and Allison Ishihara Fultz in agreement and Donald H. Spence, Jr., Chairman, necessarily not participating:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request for oral argument on the Hearing Examiner’s Report and Recommendation in Case No. S-2583, Petition of Damascus Sports’ Association, is **denied**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that that Case No. S-2583, Petition of Damascus Sports Association is **denied**.

Donna L. Barron
Vice Chairman, Montgomery County Board of

Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 23rd day of February, 2004.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board’s Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.